

**IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION**

JOHN DILLARD, et al.,

Plaintiffs,

v.

TOWN OF BOLIGEE,

Defendant.

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**CIVIL ACTION NO.
2:87-CV-1163-MHT**

JOINT MOTION TO SHOW CAUSE

Pursuant to this Court's Order of December 8, 2006, (No. 693) in *Dillard v. Crenshaw County*, The State of Alabama, by and through the undersigned liaison counsel, and the Dillard Plaintiffs, by and through one of their attorneys, jointly move this Court to direct the Town of Boligee, the defendant in this action, to show cause why this case should not be dismissed. In support of this Joint Motion, the parties state:

1. In a Consent Decree entered on May 17, 1988, that has applied to this day, this Court directed, among other things, that the Town Council for the Town of Boligee consist of five members elected from two multi-member districts, one with two members and the other with three, with all members to be elected by a plurality of the votes without numbered or designated places and all members to continue to have four-year terms.

2. In Act No. 2006-252, the Alabama Legislature provided a state-law basis for the remedial order entered in this case. The Legislature further provided that the size of the Town Council, its method of election, or both, can be changed by general or local

law in the future. Act No. 2006-252 was precleared on July 19, 2006, and is therefore effective and enforceable.

3. In the past, federal court orders, some entered by consent and some entered without the consent of the defendants, changing the size of the local governing body, its method of election, or both, have been challenged on the ground that they may have exceeded the court's remedial powers, conflicted with state law or both. With respect to the Town of Boligee, Act No. 2006-252 moots any such contention.

4. The dismissal of this case will leave the multi-member district scheme in place.

5. Pursuant to this Court's Order, in conjunction with the filing of this Motion, a version of Exhibits A and B in Word or WordPerfect format will be e-mailed to the court.

WHEREFORE, the State and the Plaintiffs jointly request that this Court:

A. Enter an Order in the form of Exhibit A requiring the Town of Boligee to show cause why this Court should not declare that Act No. 2006-252 provides state legislative authority for the method of election and number of seats prescribed by the consent decree in this action, why the consent decree should not be dissolved, and why this action should not be dismissed; and

B. Unless, within 60 days from the issuance of said order, good cause otherwise is shown, enter a final judgment in the form of Exhibit B:

(1) declaring that Act No. 2006-252 provides state legislative authority for the method of election and number of seats prescribed by the consent decree in this action;

- (2) dissolving the consent decree in this action; and
- (3) dismissing this action.

Pursuant to paragraph II.C.3 of this Court's CM / ECF Administrative Procedures - Civil, I certify that counsel for the Dillard plaintiffs has agreed to this Motion and to the Exhibits to this Motion.

Respectfully submitted February 21, 2007.

TROY KING (KIN047)
ATTORNEY GENERAL
BY:

s/ John J. Park, Jr.
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 21st day of February, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following (or by U.S. Mail to the non CM/ECF participants):

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